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PROGRAMME AND BUDGETS, 1998-1999

Personnel and financial implications of the proposed budget reductions

Submitted by the Director-General

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Introduction

1. The Secretariat initially presented the personnel and financial implications of the indicative budget reduction proposals in documents IDB.18/15/5-PBC.13/14/5 and IDB.17/CRP.8. The purpose of the present paper is to further elaborate on the personnel-related considerations and financial implications of the revised regular budget proposals submitted to the resumed session of the Programme and Budget Committee under document IDB.18/15/6-PBC.13/14/6. Member States are requested in the present document to authorize the financial resources to ensure that separation of staff can be implemented on a timely basis and in a fair and responsible manner. The Director-General appeals to Member States to accord highest priority to issues related to staff welfare and staff morale.

2. The proposed programme and budgets for 1998-1999, which foresee a reduction of 19.5 per cent in the regular budget as compared with the 1996-1997 biennium, has serious implications for the personnel of the Organization. The budget proposals, which respond to the Business Plan and include measures to streamline organizational structures, discontinue activities and achieve budget reductions in most programmes of the Organization, include the abolition of a significant number of posts.

3. As a consequence of the reduced number of posts foreseen in the budget proposals, a large number of staff will need to be separated from service with UNIDO, as there will be insufficient posts to accommodate the current staffing establishment. There would, moreover, be little opportunity to implement staff reductions through normal attrition by way of retirement or resignation. This would, in any event, be inconsistent with the staff expertise requirements under the priorities established in the Business Plan. The Secretariat will, therefore, have to adopt special measures in order to implement an orderly and cost-effective separation programme that would minimize, to the extent possible, the negative effect of downsizing.

4. The separation of staff has a substantial cost which, unlike in the previous staff reduction exercise, cannot be absorbed under existing budgets or within the financial resources currently available to the Organization. The present document discusses the personnel issues to be addressed under a staff separation programme, including the financial implications of such a programme. Information is provided on the costs of separating staff and on the costs related to the over-encumbency of posts at the beginning of the biennium. Proposals are made on budgetary and financial modalities to fund a staff separation programme.

5. The personnel and financial implications of the reduced budget proposals are very complex. In order to provide a clear and concise presentation of the issues, the paper is set out as follows:

Chapter I. Personnel issues

6. This chapter describes the personnel issues, including information on the cost-effectiveness of a voluntary staff reduction programme and on proposed incentives in that regard.

Chapter II. Cost of separations

7. This chapter presents the anticipated cost of separations demanded by the proposed budget reductions.

Chapter III. Modalities for funding the staff separation programme

8. This chapter presents two alternative modalities for funding a separation indemnity reserve for consideration by Member States. The modalities discussed include supplementary budgets and/or the transfer of unutilized balances combined with mandatory advances from Member States or external borrowing.

I. PERSONNEL ISSUES—STAFF SEPARATION PROGRAMME

9. It is proposed that staff separations be implemented in two phases. The first phase would consist of a voluntary separation programme and the second of non-voluntary separations. The reasons for, and advantages of, a voluntary separation programme and all relevant considerations are explained below.

10. UNIDO, as an employer within the United Nations system, has an obligation towards its multicultural workforce to provide an appropriate framework within which staff reductions can be implemented. Such a framework must provide for adherence to the staff regulations and rules and legally required procedures and take account of cost-efficiency considerations. Failure to do so entails a high risk of affecting seriously the operation of the Organization and increasing the related costs. It is, therefore, incumbent upon the Secretariat to bring to the attention of Member States the issues on the basis of which the Director-General considers that a voluntary separation programme is the only viable means of reaching the required reduction in staffing levels within a minimum time-frame and predictable costs. A voluntary staff separation programme thus should precede non-voluntary staff separation procedures.

11. As UNIDO has undergone substantial staff reductions in recent years, a further staff reduction must be managed to ensure that the service of high performing staff members with the required expertise is retained. An essential and integral part of a voluntary staff separation programme would, therefore, be that the Director-General reserves the right to deny applications for voluntary separation from staff members whose continued service is deemed necessary in the interest of the Organization.

A. The time factor—overencumbency costs

12. The Organization has experienced two staff separation programmes in the recent past. Based on this experience, the time factor required for the implementation of non-voluntary staff separation procedures is twice that required for a voluntary separation programme for the reasons elaborated below. This means that the corporate energy that has to be spent on downsizing is double and the process itself is prolonged at the expense of staff morale and productivity. Furthermore, costs of overencumbency are directly related to the time factor as staff remain on the payroll during the period of implementation of staff reduction procedures. Specifically, the overencumbency costs for 123 staff members (see table 1) under a voluntary separation programme are estimated at approximately $2.4 million. Overencumbency costs for the same number of staff under non-voluntary separation procedures could be expected to exceed $5 million due to the unavoidable extended period for the staff separation process.

B. Legal considerations

13. Where the necessities of the service require abolition of a post or reduction of staff, the fixed-term contracts of staff members may not automatically be allowed to expire. Jurisprudence of the Administrative Tribunal of the International Labour Organization (ILOAT) has established that a reason should be given to a fixed-term contract holder whose appointment is not extended. The decision not to extend the appointment may be subject to the examination of the tribunal. While the contractual status of fixed-term staff is quite distinct from that of permanent staff, staff members holding fixed-term appointments will claim the right to be considered for redeployment against available vacant posts. The Organization, therefore, has to show that it has made reasonable efforts in good faith to examine the possibilities of redeployment of the staff member. This obligation applies even if the number of vacant posts is low. It is relevant to recall that the General Assembly, with resolution 37/126 (IV) of 17 December 1982, has provided that staff members on fixed-term appointments upon completion of five years of continuing good service shall be given every reasonable consideration for a career appointment. Based on the above considerations in the 1996 non-voluntary phase of the staff reduction programme, the criteria and procedures for staff reduction were applied in an equitable manner to staff members holding fixed-term contracts whose posts were abolished, irrespective of the fact that the expiry of some of the contracts coincided with the implementation of the staff reduction programme. Indeed, equitable treatment of staff, especially in situations of reduction-in-force, is an additional important principle which the Tribunal is likely to examine. That is, separation modalities in situations of abolition of posts and reduction-in-force cannot exclusively be determined on the basis of expiry dates of contracts.

14. Furthermore, UNIDO staff rule 110.02 refers to preferential retention of permanent over fixed-term staff under certain conditions: namely when there are suitable posts in which their services can be effectively utilized and provided that due regard is paid in all cases to relative competence, integrity and length of service. The staff rule refers to suitable posts, i.e. such posts may be vacant or encumbered. The preferential retention is, therefore, subject to certain conditions being fulfilled which requires that the facts relating to relative merits be examined with due attention and established clearly. Thus, in order to determine how the case of a permanent staff member compares with that of a fixed-term staff member, a comparative review has to take place following which a reasoned decision (preventing a successful complaint at ILOAT) can be made on which staff member should be retained in service and which staff member should be separated from service. Non-voluntary staff reduction procedures require that this review be carried out, which in turn directly affects the time factor as mentioned in paragraph 12 above.

C. Litigation and related costs

15. Litigation costs that could result from a reduction-in-force exercise cannot be determined in advance and in that sense constitute an open-ended cost factor. As indicated in document IDB.17/CRP.8, the need to avoid non-voluntary separations to the extent possible is supported by the fact that they, more often than not, lead to expensive and protracted litigation cases. Complaints are likely to originate from affected staff due to difficulties in identifying alternative employment possibilities in an economic environment of growing unemployment and due to losses in pension and health insurance benefits. Significant litigation and related costs should thus be expected from a reduction-in-force exercise. However, a voluntary separation scheme which provides for an adequate level of incentives allows an orderly and phased approach in which the scope for a protracted implementation process, litigation and potentially higher costs

is considerably reduced. The magnitude of the reductions is a crucial element in this respect. To illustrate the point, the following information is provided.

16. According to the provisions of the UNIDO Staff Regulations and Rules and Article VII of the ILOAT Statute, an application to the Tribunal shall not be receivable unless the person concerned has exhausted such other means of resisting the decision contested as are open to him or her under the applicable staff regulations of the employing organization. The UNIDO Staff Regulations and Rules—like the regulations and rules of other organizations—provide for an internal appeals mechanism. The Joint Appeals Board (JAB) constitutes this mechanism. Thus, for a complaint to be receivable by ILOAT, the staff member or former staff member must follow all the procedures relating to the consideration of the case by JAB and the latter must have completed its review of the case and communicated its opinion to the Director-General. This procedure is required unless the Director-General has agreed to a direct submission of the complaint to ILOAT. The consideration of such cases by JAB is one of the cost factors per individual case that has to be taken into consideration.

17. Litigation costs have two components:

(a) The costs associated with the examination and consideration of each case by the (internal) Joint Appeals Board and, thereafter, by ILOAT. These are made up of costs for the preparation of written submissions and replies to appeals, complaints and rejoinders submitted by the person concerned, staff time spent at JAB meetings and other costs related to a formal legal process, including UNIDO's share of ILOAT operating costs. This cost component is estimated at $40,000 per case;

(b) The second component that cannot be estimated is the compensation that may be awarded by JAB or ILOAT, if the complaint is successful. For example, JAB may recommend or ILOAT may order the payment of compensation and of legal costs incurred by the complainant or, if it is found appropriate, the reinstatement of the complainant to duty.

D. Conclusions

18. On the basis of the above considerations, it is proposed that staff separations be implemented in two phases comprising a voluntary and a non-voluntary phase. As mentioned in document IDB.18/15/5-PBC.13/14/5, the proposed elements to be financed under the staff separation programme constitute a minimum set of compensation modalities, incentives and services. The cost elements of staff separations include:

(a) Termination indemnity, according to staff regulation 10.6(a), schedule IV, of the staff regulations and staff rule 110.07;

(b) In cases of agreed termination of permanent appointments, payment of termination indemnities increased by up to 50 per cent in accordance with staff regulation 10.6(b);

(c) Extension of this provision to the termination of fixed-term appointments under the voluntary phase of staff separations, as was authorized by the General Conference for the staff reduction in 1995-1996 (GC.6 Dec.14);

(d) Salary and common staff costs incurred during the implementation period and periods of notice;

(e) The costs of an outplacement programme with a view to assisting separating staff with alternative employment opportunities;

(f) The costs associated with administering termination procedures, including appeals to the Joint Appeals Board or complaints submitted by affected staff to the ILO Administrative Tribunal.

19. PBC conclusion 97/4 calls, *inter alia*, for a judicious mix of voluntary separations and expiration of fixed-term contracts no longer required in view of the discontinuance of activities in accordance with the Business Plan and in view of the major restructuring of UNIDO, which would result therefrom. The Secretariat intends to adopt measures ensuring that separation and compensation modalities will be consistent with the contractual status and expectancy of further employment of the individual concerned. Specifically, fixed-term appointments may be allowed to expire, where appropriate. Furthermore, agreed terminations with an increased indemnity will not be offered in cases of staff members on fixed-term appointments who, by the end of their current term, will have served for a total period not exceeding five years.

20. Voluntary staff separation programmes have also been implemented by other organizations of the United Nations common system. Such programmes were usually, but not exclusively, occasioned by budget reductions. It may be noted that other Organizations of the common system and of the World Bank group have offered their staff separation modalities that are more favourable than those contained in paragraph 18 above. For example, in the case of two Geneva-based organizations, post adjustment was included in the termination indemnity for Professional staff. Post adjustment is a cost-of-living element received by such staff while in service. However,

the compensation received by UNIDO staff in the Professional and higher categories (termination indemnity) does not include post adjustment. In addition, the payment of increased termination indemnity has been extended to fixed-term staff. For certain age groups and under certain conditions, payments of pension and health insurance contributions were also made by other agencies.

21. The re-employment of staff who separate from UNIDO is regulated by policies developed by the Vienna-based organizations of the United Nations common system, which do not permit indemnization from one organization and re-employment and payment of emoluments from another.

II. COST OF SEPARATIONS

22. The programme and budget proposals for 1998-1999, which outline the programme of work and corresponding financial estimates for the biennium, do not include provision for the cost of separations. Staff separation costs are a consequence of a reduced budget for 1998-1999, but do not form part of the budget as they are not related to the implementation of the programme of work for the biennium. Therefore, separate provision must be made for the full cost of separations, including salary costs through over-encumbency of posts during the implementation period, when the Organization will have more staff than posts budgeted. Based on the optimistic assumption that two-thirds of the staff reductions could be effected within three months and the remaining one-third within six months, the average cost of separation for Professional staff is estimated at $184,000 and General Service staff at $100,000. The average also includes provision for other separation-related costs as described in paragraph 18. The assumptions on the expected implementation period during which separations will be effected is dependent on an early decision by Member States on financing modalities and a significant number of voluntary separations being achieved. The average cost of separation would increase if the implementation period was longer than assumed, which would be the case if the Organization had to invoke a significant number of non-voluntary separations.

23. The programme and budget proposals for 1998-1999 foresee the abolition of 51 Professional and 94 General Service posts. In view of the fact that some of the posts that are to be abolished are currently vacant, the number of staff separating from service will be fewer than the number of posts to be abolished.

24. The policy of restricted recruitment followed by the Secretariat during the past 12 months, which has led to a number of posts remaining vacant, will result in the total cost of separations being significantly less than might have been expected from the reduction of posts in the budget.

25. The number of posts to be abolished and staff to be separated, together with the average and total cost of separations are presented in table 1 below:

Table 1

Number of posts to be abolished

	Pro-fessional	General Service	Total
Total posts to be abolished	51	94	145
Vacant posts to be abolished	8	14	22
Encumbered posts to be abolished/ staff to be separated	43	80	123
Average cost of separations	$184,000	$100,000	$129,300
Total cost of separations	$7.9 million	$8.0 million	$15.9 million

26. The above costs are based on the assumption of voluntary separations. While the average cost for non-voluntary measures may be initially lower due to fewer incentives and separation indemnity payments, the additional costs made up of longer transition costs (over-encumbency costs without budgetary allocation), due process costs of implementing non-voluntary separations and likely *post facto* litigation costs would result in substantially higher real costs for the Organization.

III. MODALITIES FOR FUNDING A STAFF SEPARATION PROGRAMME

27. The financial estimates of a staff separation programme as outlined in the above paragraphs will require the replenishment of the separation indemnity reserve as presented in table 2 below.

28. Two important considerations must be addressed:

(a) Member States must provide budgetary approval for an allocation of funds for the restoration of the separation indemnity reserve to provide for the costs of staff separations;

Table 2

Financial estimates of staff separation

	$ million
Current level of the separation indemnity reserve	2
Replenishment required	13.9
Cost of separations	15.9

(b) A budgetary allocation of funds for the restoration of the separation indemnity reserve must be matched by cash.

29. In this context, the Secretariat draws attention to the report of the External Auditor on the interim accounts of UNIDO for the first year of the financial period 1996-1997 (IDB.18/3-PBC.13/3) which, in paragraph 21, states:

> "We stress that in case another staff reduction exercise becomes necessary, it may not presently be possible to fund a reserve for separation benefits, as the surplus for the 1994-1995 biennium is not backed up by cash resources. Therefore, Member States would be obliged to provide additional funds for that purpose."

30. The Organization does not have the cash resources to implement the staff reduction programme. Unless cash resources are made available, the process of reducing staffing to approved budget levels would be delayed. Such delays could undermine the programmatic implementation of the new budget and would lead to an unprecedented cash crisis during the first half of 1998. The inability of the Organization to separate staff and pay separation indemnities would result in many staff continuing to draw their salaries for which no budget resources would be available. The resulting cash flow imbalances and drain on cash balances could lead to the Organization becoming insolvent and unable to meet the payroll and other financial obligations. On the other hand, separation of staff without adherence to the provisions of the staff regulations and rules, and required procedures could make the Organization liable for substantial claims for damages by affected staff members.

31. The Secretariat proposes two alternative approaches to permit the funding (budgetary authority) and financing (cash) of the staff separations necessary to achieve a reduction in staffing to the budgeted number of posts for 1998-1999.

Alternative 1

Alternative 1 foresees:

	Requirement	Source
(a)	Budgetary authority (funding):	Supplementary budget for staff separations
(b)	Cash (financing):	Assessment on Member States

32. Under this alternative, budgetary funding for the separation indemnity reserve increase of $13.9 million would be by way of a supplementary budget. The financing of a supplementary budget would be through an assessment on Member States in accordance with the scale of assessments.

33. The assessed contributions to be paid by Member States in 1998 would, therefore, comprise (a) the supplementary budget for staff separations and (b) the 1998 portion of the 1998-1999 budget. As can be seen from table 3 below, the overall level of assessed contributions for 1998 would thus be similar to that of 1997:

Table 3

Proposed assessment on Member States, 1998
(In millions of US dollars)

	Budget assessed on Member States	Supplementary budget for staff separations	Total assessment for year
1997 (less Australia)	77.2	-	77.2
1998	65.5	13.9	79.4
Increase/ (decrease)	(11.7)	13.9	2.2

34. This alternative has the advantage of simplicity and recognizes the direct causal relationship between a substantially reduced budget and the cost of achieving such reductions.

35. Timely payments by Member States under this alternative would be essential to ensure that cash is available early in 1998 to implement staff separations in as timely a manner as possible.

Alternative 2

Alternative 2 foresees:

	Requirement	Source
(a)	Budgetary authority (funding):	Unutilized appropriations from 1994-1995
(b)	Cash (financing):	Advances from Member States or external borrowing

A. Budgetary approval

36. Under alternative 2, the separation indemnity reserve would be funded by transferring part of the unutilized balance of appropriations from the biennium 1994-1995 to the separation indemnity reserve. The budgetary surpluses arising from the unutilized balances of appropriations for the biennium 1994-1995 of $31,500,000 are shown in document IDB.18/4-PBC.13/4 (note 2(i)(ii)). Subject to the approval of the General Conference, part of this surplus could be transferred to the separation indemnity reserve to provide the budgetary authority to fund a staff separation programme. Under this alternative, Member States would be requested to approve the suspension of financial regulations 4.2(b) and 4.2(c) for part of the unutilized balances and to approve a transfer to the separation indemnity reserve account.

37. Notwithstanding the possible approval by Member States of the funding modalities proposed in this chapter, the Organization would still not have the required financial resources to finance the separation indemnity reserve. In other words, although the budgetary authority may be given, cash is required to permit payments for staff separation indemnities to be made from the separation indemnity reserve. The possible source of the required cash is discussed in the following paragraphs.

B. Financing of staff separations

38. As stated above, the implementation of the staff reduction programme requires cash. The most obvious source of the cash would be from the payment by Member States of outstanding assessed contributions. For instance, payment by the United States of America of only one quarter of its outstanding contribution alone would provide sufficient cash to finance a staff separation programme. There are also significant levels of outstanding contributions from other Member States. However, unless the Organization is successful in recovering outstanding assessed contributions before December 1997 at levels sufficient to finance the separation indemnity reserve, an alternative course of financing must be identified. Two modalities of financing could be considered.

Advances by Member States

39. In the absence of cash from late payment of assessed contributions (paragraph 38 above), Member States could agree to mandatory advances by way of loans to the Organization, which would be repaid as and when such assessed contributions are paid. Such advances, which could be based on the scale of assessments, would be presented in the financial statements as liabilities to Member States and would not be considered as permanent contributions to the Organization.

External borrowing

40. In the absence of cash from late payments of assessed contributions (paragraph 38 above), or mandatory advances by way of loans from Member States (paragraph 39 above), the Organization would need to seek voluntary advances by Member States or external financing from banks or other financial institutions to finance staff separations.

41. As the Constitution and Financial Regulations of UNIDO do not exclude the possibility of borrowing funds from external institutions, Member States may wish to approve this option. The level of borrowing would be on an "as needed" basis through a credit line and would, in any event, be restricted to a maximum level of $13.9 million, being the amount estimated for the replenishment of the separation indemnity reserve. The cost of borrowing would be met from the separation indemnity reserve. The cash drawn down under the credit lines would be repaid as and when late assessed contributions are paid.

IV. SUMMARY

42. The issues can be summarized as follows:

(a) A significant reduction in staff is an inevitable consequence of the reduced budgetary levels expected to be approved by Member States for 1998-1999;

(b) The Organization has legal and financial obligations to its staff who will separate from the Organization as a result of budgetary reductions;

(c) A staff separation programme consisting of a voluntary phase and, thereafter, non-voluntary separations is a cost-effective means to implement the

required number of staff separations; it reduces the scope for a protracted implementation process, litigation and unpredictable costs resulting therefrom;

(d) Member States must provide the budgetary authority for the cost of staff separations;

(e) The Organization does not presently have the cash to implement a staff separation programme and a financing modality must be identified;

(f) The time factor of separation is essential to reduce the likelihood of a financial crisis in 1998.

V. ACTION REQUIRED OF THE COMMITTEE

43. The Director-General urges the Committee to take the required decisions to address the personnel and financial issues arising from Member States' decisions to impose significant reduction in the regular budget.

44. The Committee may wish to consider adopting one of the following draft decisions:

Alternative 1

"The Industrial Development Board:

"(a) Takes note of document IDB.18/15/5/Rev.1-PBC.13/14/5/Rev.1 on the personnel and financial implications of the budget reductions proposed for the 1998-1999 biennium;

"(b) Recommends to the General Conference the approval of a supplementary budget in the amount of $13.9 million for the purpose of funding the separation indemnity reserve to meet the costs of staff separation;

"(c) Also recommends to the General Conference the approval of the financial arrangement outlined in document IDB.18/15/5/Rev.1-PBC.13/14/5/Rev.1 relating to voluntary separation of staff, which may include special arrangements to holders of fixed-term appointments, to be financed from the separation indemnity reserve;

"(d) Requests the Director-General to implement a staff separation programme in accordance with the staff rules and regulations to reduce the staffing establishment to the levels approved in the 1998-1999 programme and budgets."

Alternative 2

"(a) Takes note of document IDB.18/15/5/Rev.1-PBC.13/14/5/Rev.1 on the personnel and financial implications of the budget reductions proposed for the 1998-1999 biennium;

"(b) Recommends to the General Conference the suspension of financial regulations 4.2(b) and 4.2(c) with respect to the unutilized balance of appropriations for the 1994-1995 biennium, as reported in document IDB.18/4-PBC.13/4, in the amount of $13.9 million for the purpose of funding the separation indemnity reserve to meet the cost of staff separations;

"(c) Also recommends to the General Conference the approval of a mandatory assessment on Member States of $13.9 million as a temporary advance to the Organization, to be repaid as late payments of assessed contributions for prior bienniums are received;

or

"(c) Also recommends to the General Conference that the Director-General be authorized to borrow from Member States or external institutions up to a maximum of $13.9 million to be repaid as late payments of assessed contributions for prior bienniums are received;

"(d) Also recommends to the General Conference the approval of the financial arrangement outlined in document IDB.18/15/5/Rev.1-PBC.13/14/5/Rev.1 relating to voluntary separation of staff, which may include the special arrangements to holders of fixed-term appointments, to be financed from the separation indemnity reserve;

"(e) Requests the Director-General to implement a staff separation programme in accordance with the staff rules and regulations to reduce the staffing establishment to the levels approved in the 1998-1999 programme and budgets."